

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:

Robin Gayle Clemmons

Debtor.

)
)
)
)
)

**Case No. 10-14745-NLJ
Chapter 13**

**MOTION TO CONVERT CASE TO CHAPTER 7
COMBINED WITH BRIEF IN SUPPORT OF MOTION**

COMES NOW the Chapter 13 Trustee, John Hardeman ("Trustee"), and requests this Court convert the above-styled Chapter 13 case to one under Chapter 7 pursuant to provisions of 11 U.S.C. §1307(c). In support of this Motion, the Trustee would show the Court the following:

1. The instant bankruptcy case was filed on August 1, 2010. On September 24, 2010, the Court entered an Order Confirming Chapter 13 Plan. The Order Confirming sets forth liquidation value in a 1965 Ford Mustang and a 1965 Oldsmobile F85 in the combined amount of \$9,432.00.

2. On June 6, 2012, DLJ Mortgage Capital, Inc. notified the Trustee of an increase in the monthly mortgage payment from \$1,000.28 to \$1,070.60. The increase in the monthly mortgage payment has resulted in the plan no longer being feasible. With the increased mortgage payment, the plan runs for a term of 68 months in violation of 11 U.S.C. §1322(d).

BRIEF IN SUPPORT

3. Section 1307(c) of the Bankruptcy Code provides the Court may convert or dismiss a Chapter 13 case, whichever is in the best interest of creditors and the estate, for cause. Cause is not a term specifically defined by the Bankruptcy Code. However, the violation of a specific Code provision certainly provides cause for conversion or dismissal.

Section 1322(d) provides that a plan may not provide for payments over a period longer than 5 years. Due to the increased mortgage payment, the plan of the debtor currently runs for a term in excess of five years. This lack of feasibility provides sufficient cause to convert or dismiss the Chapter 13 case.

4. In considering whether to dismiss or convert a case, §1307(c) provides the Court is to do whichever is in the best interest of the creditors and the estate. Given the existence of non-exempt assets, conversion is appropriate. Conversion would allow a Chapter 7 trustee the opportunity to liquidate non-exempt property for the benefit of creditors. For this reason, conversion, rather than dismissal, is in the best interest of creditors.

WHEREFORE, the Chapter 13 Trustee requests that the Court convert this Chapter 13 case to a case under Chapter 7 pursuant to the provisions of 11 U.S.C. §1307(c).

Respectfully submitted,

/s/ Linda Ruschenberg
Linda Ruschenberg OBA #12842
P.O. Box 1948
Oklahoma City, OK. 73101
(405) 236-4843
(405) 236-1004 (fax)
Attorney for Trustee

TIME FOR RESPONSE: Any response opposing the foregoing Motion must be filed and served within 14 days, plus 3 days for mailing, after service of the Motion. If no response is filed within the applicable period, the instant Motion will be deemed confessed.

CERTIFICATE OF MAILING

This is to certify that on the 5th day of June, 2012, a true and correct copy of the above and foregoing instrument was mailed, postage prepaid, to all parties and attorneys whose names and addresses are shown on the attached lists.

/s/ Linda Ruschenberg

Label Matrix for local noticing
1087-5
Case 10-14745
Western District of Oklahoma
Oklahoma City
Tue Jun 5 11:32:04 CDT 2012

Baer, Timberlake, Coulson, & Cates P.C.
6846 S. Canton, Ste. 100
Tulsa OK 74136-3413

Cac Fin Coll
2601 Nw Expwy
Oklahoma City OK 73112-7236

Central State Recovery
1314 N Main St
Hutchinson KS 67501-4002

Credit Servi
Pob 60566
Oklahoma City OK 73146-0566

DLJ Mortgage Capital, Inc.
c/o Matthew Hudspeth
Baer, Timberlake, Coulson & Cates, P.C.
P.O. Box 18486
Oklahoma City OK 73154-0486

Emergency Physicians of Midwest City
P.O. Box 96408
Oklahoma City OK 73143-6408

HSBC Auto Finance / Santander
Attn: Bankruptcy
Po Box 562088 Suite 900
Dallas TX 75356-2088

IPC of Oklahoma
P.O. Box 51010
Los Angeles CA 90051-5310

Integrus Baptist Medical Center
3300 NW Expressway
Oklahoma City OK 73112-4999

AT&T Mobility
PO Box 650553
Dallas TX 75265-0553

Bone & Joint Hospital
1111 N. Dewey
Oklahoma City OK 73103-2609

Cac Financial Corp
2601 Nw Expwy
Oklahoma City OK 73112-7236

Robin Gayle Clemmons
13708 May Addition Rd.
Shawnee, OK 74804-3445

DLJ Mortgage Capital, Inc.
Baer, Timberlake, Coulson, Cates P.C.
c/o Robert Hauge
6846 S. Canton Ave, Suite 100
Tulsa, OK 74136-3413

DNH Auto
POB 676068
Dallas TX 75267-6068

Frost-Arnett Co
POB 198988
Nashville TN 37219-8988

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA PA 19101-7346

Jon Barry & Associates
216 Lephillip Ct
Concord NC 28025-2954

American Collection Se
Pob 60566
Oklahoma City OK 73146-0566

Brace Place
POB 26243
Oklahoma City OK 73126-0243

Cbsa
123 7th Avenue Cntr
Stillwater OK 74074

Credit Collection Inc
Po Box 60607
Oklahoma City OK 73146-0607

DLJ Mortgage Capital, Inc.
Select Portfolio Servicing, Inc.
PO Box 65450
Salt Lake City, UT 84165-0450

Dr. Jack Mann, DDS
18 Dunloup
Shawnee OK 74804-3203

GRP Mortgage Corp. (Select Portfolio)
Box 65250
Salt Lake City UT 84165-0250

Robert J Hauge
Baer Timberlake Coulson & Cates PC
6846 S Canton Ave Ste 100
Tulsa, OK 74136-3413

Ic Systems Inc
Po Box 64378
Saint Paul MN 55164-0378

Lightstar Emergency Physicians
P.O. Box 268893
Oklahoma City OK 73126-8893

Matthew J. Hudspeth
6846 S. Canton, Ste. 100
Tulsa OK 74136-3413

MidAmerica Emergency Phys
75 Remittance Dr.Su 1151
Chicago IL 60675-1001

Midwest Open MRI
2300 S. Douglas Blvd.
Oklahoma City OK 73130-7114

Midwest Regional Medical Center
2825 Parklawn Dr.
Oklahoma City OK 73110-4201

NCO Financial Systems
2360 Campbell Creek Ste 500
Richardson TX 75082-4453

National Education Acceptance
POB 419118
Saint Louis MO 63141-9118

Norman Recovery Health Systems
P.O. Box 268961
Oklahoma City OK 73126-8961

Norman Regional Hospital
901 N. Porter
Norman OK 73071-6482

OTC
Legal Division - Bankruptcy Section
120 N. Robinson, Ste. 2000W
Oklahoma City OK 73102-7801

Oklahoma Radiology Group
POB 26064
Oklahoma City OK 73126-0064

Oklahoma Sports Science & Orthopedics
10001 S. Western
Oklahoma City OK 73139-2997

Oklahoma Tax Commission
Legal Division
120 N Robinson Suite 2000W
Oklahoma City, OK 73102-7801

Oklahoma Tax Commission
Legal Division - Bankruptcy Section
120 N. Robinson, Ste. 2000W
Oklahoma City OK 73102-7801

Olsen Orthopedics
POB 25887
Oklahoma City OK 73125-0887

James E. Palinkas
J.E. Palinkas, P.C.
318 N. Broadway
Shawnee, OK 74801-6920

Palisades Collections, LLC
Vativ Recovery Solutions LLC
As Agent for Palisades Collections, LLC
PO Box 19249
Sugar Land TX 77496-9249

Progressive Mgmt Syste
1521 W Cameron Ave Fl 1
West Covina CA 91790-2738

Radiology Associates
3330 NW 56th St 206
Oklahoma City OK 73112-4478

React EMS
P.O. Box 3700
Shawnee OK 74802-3700

SW Orthopaedic
8100 S Walk
Oklahoma City OK 73139

Select Portfolio Svcin
Po Box 65250
Salt Lake City UT 84165-0250

(c)SHAWNEE MEDICAL CENTER CLINIC
3315 KETHLEY RD
SHAWNEE OK 74804-9638

Shawnee Medical Center Clinic
P.O. Box 849
Shawnee OK 74802-0849

Southwest MRI
230 SW 80th St.
Oklahoma City OK 73139-8107

St. Anthony Hospital
1000 N. Lee St.
Oklahoma City OK 73102-1080

St. Gregory's University
1900 W MacArthur
Shawnee OK 74804-2403

Stephen Russell
13708 May Addition Rd.
Shawnee OK 74804-3445

Tinker Credit Union
POB 45750
Oklahoma City OK 73145-0750

Tinker FCU
4140 West I-40
Oklahoma City OK 73108

Tinker FCU
PO 13067
Oklahoma City OK 73113-1067

U.S. Trustee
United States Trustee
215 Dean A. McGee Ave., 4th Floor
Oklahoma City, OK 73102-3444

Unity Health
1900 Gordon Cooper Dr
Shawnee OK 74801-8603

Unity Health Center
1900 Gordon Cooper Drive
Shawnee OK 74801-8603

Unity Health Center
Shawnee OK 74804

WM. W. Siegel & Assc
7 Penn Plaza, Ste. 1500
New York NY 10001-3971

Wyrhsr Mtg (formerly GRP)
3815 South West Temple
Salt Lake City UT 84115-4412